

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00812R

Parcel No. 181/00200-230-065

Matthew Rodgers,

Appellant,

v.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on June 10, 2016. Matthew Rodgers was self-represented. Assistant Polk County Attorney Mark Taylor represented the Polk County Board of Review.

Rodgers is the owner of a residentially classified, one-story home located at 304 NE Mission Court, Ankeny. The home was built in 2013 and has 2101 square feet of above-grade finish; a full basement with 1500 square feet of living-quality finish; two open porches, and an attached, three-car garage. The site is 0.375 acres. (Ex. A).

The property's January 1, 2015, assessment was \$423,700, allocated as \$72,700 in land value and \$351,000 in improvement value. Rodgers protested the assessment to the Board of Review claiming the property was inequitably assessed; was assessed for more than the value authorized by law; and that there was an error in the assessment under Iowa Code sections 441.37(1)(a)(1)(a-b & d).

The Board of Review corrected a listing error and reduced the assessment to \$421,700. Rodgers then appealed to PAAB, reasserting his claim of overassessment. He asserts the property's correct fair market value is \$361,750.

Findings of Fact

Rodgers purchased the custom-built home from Kimberley Development Corporation in April 2014 for \$469,420. Rodgers asserts that it was immediately apparent that the property was built with materials and construction techniques that were below average and have resulted in defects throughout the home that affect its value. Thus, he does not believe the assessment fairly recognizes the diminished value because of the deficiencies. He noted that some of the most apparent defects include improperly installed hardwood flooring and exterior doors, inferior quality carpet that is frayed and deteriorating, and drainage issues in the rear yard. In Rodgers' opinion, the property requires \$35,000 worth of repairs to correct these issues, and this cost estimate is also uncontroverted.

In addition to two appraisals of the property, Rodgers submitted sales of fifteen properties he believes demonstrate his property is assessed for more than market value. The properties sold between 2014 and 2015 and included both one-story and two-story homes. First and foremost, we note that none of the sales were adjusted to reflect differences between the properties and the subject. Moreover, the one-story homes all have a lower grade (quality rating), are between nine- and eighteen-years older, have less gross living area, and most have less basement finish than the subject property. For these reasons, we find the sales have little probative value and give them no weight.

Rodgers submitted two appraisals completed by Tim Hill of Hill Appraisal Service, Ankeny. The following chart is a summary of Hill's conclusions.

Exhibit	Date of Value	Sales Comparison Approach	Cost Approach	Final Opinion of Value
1	Jan-16	\$393,000	\$399,839	\$393,000
2	Jan-15	\$382,000	N/A	\$382,000

Rodgers testified he originally commissioned Hill to appraise the property for assessment purposes, which resulted in the appraisal with an effective date of January 2016. Upon submitting this appraisal to the Board of Review, Rodgers was notified that

the effective date should reflect the assessment date of January 1, 2015. Rodgers then asked Hill to reappraise the property with the correct date.

In his 2016 appraisal, Hill opines a site value of \$52,000. Based on Hill's opinion and other appraisals in the record, Rodgers asserts the \$72,700 assessed land value for his property is more than market value and his assessment should be reduced. We note the other appraisals in the record have site value opinions up to \$80,000, which is higher than the assessed site value.

Hill testified regarding his 2015 appraisal. (Ex. 2). To complete the report, he relied solely on the sales comparison approach to support his opinion. To complete the analysis, Hill selected five sales chosen based on the fact that they required some updating like the subject. He acknowledged the property needs \$35,000 worth of repairs, and believes that an additional adjustment above this amount must be considered to reflect market actions. The following chart is a summary of the sales used in the appraisal.

Address	Date of Sale	Sale Price	Age	Gross Living Area (GLA)	Basement Finish	Adjusted Sales Price
Subject	Apr-14	\$469,420	0	2101	1977	N/A
1 - 902 NE Huntington Ct	Oct-14	\$345,000	20	1850	1220	\$394,355
2 - 1112 NE 31st St	Apr-14	\$325,000	12	2012	1500	\$369,755
3 - 5028 NE Bellagio Dr	Apr-14	\$400,570	1	1834	1062	\$382,495
4 - 512 NE Liberty Ct	Feb-14	\$437,000	1	1969	1112	\$374,575
5 - 2607 NE Bellagio Dr	Apr-14	\$430,000	3	1850	1650	\$419,405

Hill adjusted the comparable properties for differences in view, quality, condition, size, and other amenities such as room count, and basement finish, for example.

He testified that he researched other Kimberly Development custom-built sales and asserted that on average, the properties are selling for roughly 10% less on re-sale. Based on this, he testified that he adjusted all of the comparables by 10% to reflect their superior condition to the subject. However, we note the adjustments he actually made are not consistent with this testimony.

Hill also admitted an error in his adjustments to Sale 5. Upon reflection, Hill stated this adjustment should have been a negative rather than a positive adjustment, which would result in an adjusted value of \$389,405 for this sale. In his opinion, correcting this error further supports his conclusions.

Hill also admitted errors in his adjustments to Sales 1 and 2, which reflected upward condition adjustments. He admitted that these should have reflected downward adjustments. This would result in adjusted values for Sales 1 and 2 of \$326,335 and \$305,755, respectively. He also stated that if he corrected these adjustments, he should make additional adjustments to these sales. However, he was unable to clarify what those adjustments might be or the final adjusted sales price after correcting for these errors.

Hill's value opinion is roughly \$87,000 less than what Rodgers paid for the property only nine months previously. He states in his report the "prior sales amount does not have any weight in this report due to the home being built to order in which items were paid for that do not carry market value in the area." (Ex. 2, p. 2). Hill explained that these items might include architect fees, change order fees, or other possible changes that would not be recouped in the market. Speaking generically about the housing market, he identified some custom features such as woodwork, and home-theater systems as upgrades that may not see dollar for dollar return in the market. However, Hill provided no specifics to support this contention that Rodgers property was improved with specific features or materials that result in the property being over-improved or super-adequate in the market place. Further, he admitted that he never saw any building plans and specifications, or copies of the hypothetical change orders.

Prior to Hill's testimony, there was a reference to the sale of a property next door to the subject at 308 NE Mission Court. (Ex. K). This property was built by the same builder as the subject property, is the same style, offers the most comparable location, and like the subject was a custom build. It sold in December 2014 for \$474,400. Hill testified that he did not use this sale because, based on his research, it had over \$40,000 in upgrades. He did not provide any details of what upgrades this property had that the subject property did not.

We find Hill's analysis to have significant flaws in the adjustments, including adjustments made in the wrong direction; and, apparently based on Hill's testimony, missing adjustments that would need to be considered after correcting for other errors. Additionally, he had little or no support for his opinions, such as asserting the builder intentionally misled the homeowner and substituted lower quality materials for higher quality materials that may have been in the contract to build. He did not adequately analyze the prior sales history of the subject property and failed to address the sale of a nearly identical property next to the subject property that recently sold.

The Board of Review submitted three appraisals, summarized in the following chart.

Exhibit	Appraiser	Date of Value	Sales Comparison Approach	Cost Approach	Final Opinion of Value
P	Dennis Loll Des Moines Real Estate Services	Jan 2015	\$440,000	\$469,508	\$440,000
Q	Duane Hueneke Williams Appraisal, LLC	Dec 2014	\$476,000	\$477,319	\$476,000
R	Cris Swaim Swaim Appraisal Services	Mar 2014	\$470,000	\$476,300	\$470,000

The Hueneke and Swaim appraisals were completed for mortgage financing purposes when the subject property was purchased and subsequently refinanced. Neither appraiser seemed to be aware of the subject property's defects and reflect a value for the subject property as if there were no concerns. The Loll appraisal was prepared for the Board of Review to determine the market value of the subject property as of January 1, 2015, and it considers the defects that Rodgers identified. Of the three appraisals submitted by the Board, we find it to be the most relevant.

Loll testified that he selected five properties that he felt had similar features to the subject and bracketed elements of the subject property. The following chart is a summary of his comparable sales.

Address	Date of Sale	Sale Price	Gross Living Area (GLA)	Basement Finish	Adjusted Sales Price
Subject	Apr-14	\$469,420	2105	1970	N/A
1 - 308 NE Mission Ct	Dec-14	\$474,400	1856	1269	\$467,400
2 - 512 NE Liberty Ct	Jun-14	\$437,000	1969	1112	\$445,000
3 - 1335 NE Milan Ave	Mar-15	\$460,000	2196	1560	\$424,500
4 - 232 NE Pinehurst Cr	Jan-14	\$387,400	1892	1477	\$425,400
5 - 2607 NE Bellagio Dr	May-14	\$430,000	1850	1650	\$440,500

Loll explained that he used Sale 1 because of its immediate location next door to the subject, it was built by the same builder, and the exterior of the home was very similar to the subject. He testified that he had less information on this property than his other sales, but did adjust it for quality and condition. He notes it was smaller, lacked a walkout lower level, and had less basement finish. He adjusted the quality/condition of the property downward by \$35,000 to reflect its upgrades and superior condition considering the subject's known defects.

Sale 2 has a very similar exterior appearance to the subject property, and ample photos were available on the multiple listing service (MLS) that provided Loll with information to make his adjustments. He notes that this sale lacks the hardwood flooring and built-ins that the subject features; had flat ceilings versus vaulted or raised ceilings in the living room that the subject features; and although it had a wet bar in its basement, it was inferior to the subject property's more extensive wet bar. Loll testified that he did not make any adjustments for quality although it was inferior to the subject because he also considered it superior in condition because it did not have the deficiencies of the subject property. Therefore, the adjustments were slightly offsetting and he made a negative \$15,000 adjustment to reflect the overall quality/condition between it and the subject.

Sale 3 remained unoccupied until it was two-years old. Loll had personally inspected the property in the past. He considered it superior, overall, in quality with some higher quality woodwork and built-ins. Like Sale 1, he adjusted downward \$35,000 for quality/condition. Rodgers was critical of Loll for using this sale because it was after the January 1, 2015, assessment date. Loll, explained that professional

practice does allow for consideration of sales outside of an effective date, when it is relevant, and market conditions are the same. He further notes that this sale went under contract in February 2015, just a month later than the assessment date. We note this is acceptable appraisal practice. Moreover, even if this sale is removed from consideration, Loll's opinion of the fair market value is still supported by the remaining sales.

Loll considered Sale 4 because of its proximity to the subject property. It was adjusted for its smaller site. Loll testified that this property "lacked some features" but considered it overall similar quality to the subject property.

Loll indicates Sale 5 is a good quality home with a lot of similar features as the subject property as well as some additional features such as additional built-ins, a theater room, and carriage doors on the garage to name a few upgrades.

Loll testified that he spoke with Rodgers and viewed the defects in the subject property. He agrees that the property has issues but believes they are mostly correctable. Loll explained he believes "correctable" is the cost to cure. Loll agreed with Rodgers estimate of \$35,000 to complete the repairs and considered this in his analysis.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if

it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Rodgers submitted the Hill appraisal, with an effective date of January 2015, (Ex. 2) to support his opinion the subject property is over assessed. However, Hill had significant errors in his report. Hill also failed to consider a relevant, recent, sale located next door to the subject property. Moreover, he did not reasonably explain the nearly \$90,000 difference between his opinion of value and the recent sale price of the subject property. Ultimately, we find Hill's analysis to be unreliable. We give his appraisal no weight.

The Board of Review submitted three appraisals.

We find the Loll appraisal submitted by the Board is the best evidence in the record of the fair market value of the subject property as of January 1, 2015, because it takes into consideration the defects that exist in the subject property. Loll considered the \$35,000 cost to cure based on the estimates he received from Rodgers. Loll compared the subject to other like properties, including the recent sale of the neighboring property, and adjusted them for differences in quality and condition. Loll's opinion of value is \$440,000, which is roughly \$35,000 less than the Hueneke appraisal, which values the property as of a similar effective date, but with no defects. Moreover, we note the January 1, 2015, assessment is \$421,700, nearly \$20,000 less than Loll's opinion of market value.

As previously noted, Rodgers also contends that because Hill's and Loll's appraisals had an estimate of land value that were less than the assessed site value, the assessment's site value should be reduced. However, the record indicates opinions of site value as high as \$80,000. Moreover, the assessment considers the total market value of the property, not the individual components. The best evidence of the total market value of the subject property is Loll's appraisal.

Based on the foregoing, we find Rodgers has failed to support his claim that the property is over assessed.

Order

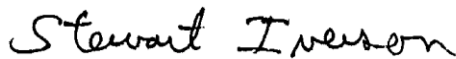
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 13th day of July, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Copies to:

Matthew Rodgers by eFile

Mark Taylor by eFile